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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

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10 In the matter of: Grand Jury 208-3

11 Request for Excuse for Jury Service

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MC-09-017-PHX-FJM

ORDER

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15 The court has before it a “Motion to be Excused for Good Cause from Grand Jury

16 Duty” presented by Paul Charlton on behalf of Martin Lee Harvier. By our order of January

17 15, 2009, we rejected Harvier’s request to be excused from Grand Jury service under 28

18 U.S.C. § 1863(b)(6)(C) because tribal governments were not covered by that section.

19 Harvier now requests to be excused under 28 U.S.C. § 1866(c), and claims that service on

20 the Grand Jury creates an undue hardship and extreme inconvenience within the meaning of

21 the statute. He states that he must attend tribal meetings every Wednesday beginning at 3:00

22 p.m. and every Thursday from 12:00 p.m. until 4:00 p.m. Serving on a Grand Jury, he

23 contends, will require him to miss one out of every four tribal meetings.

24 Under 28 U.S.C. § 1861, grand and petit juries are to be selected from “a fair cross

25 section of the community.” This District has an extraordinary number of criminal cases

26 against reservation Indians and thus it is important that reservation Indians serve on grand

27 and petit juries in order that such juries consist of a fair cross section of the community.

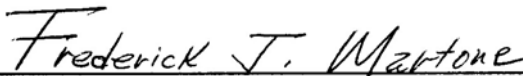
28 Harvier’s request pits the importance of his service to future reservation defendants against

1 the importance of his service as a member of the tribal council. Because this is Harvier's
2 second request to be excused from service on the Grand Jury, it seems that he at least
3 believes it is more important that he not miss some council meetings than afford reservation
4 Indians his role as a member of that fair cross section of the community. Reservation Indians
5 charged with criminal offenses may feel otherwise.

6 Nevertheless, we believe that the Grand Jury process is better served when its members
7 want to serve. Given his multiple requests to be excused, it is plain that Harvier does not
8 want to serve. Accordingly, IT IS ORDERED GRANTING Harvier's "Motion to be
9 Excused for Good Cause from Grand Jury Duty."

10 We note that while service on a Grand Jury may be disruptive of Harvier's service on the
11 council, service on a petit jury would not. Should a petit jury summons issue in future years,
12 we hope that Harvier will consider the need for such juries to properly reflect a fair cross
13 section of the community within the meaning of 28 U.S.C. § 1861.

14 DATED this 26th day of February, 2009.

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18 Frederick J. Martone
19 United States District Judge
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21 cc: Ana Baca, Jury Administrator
22 Paul Charlton
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